

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Special Called Council Meeting

September 10, 1979
4:00 P.M.

Council Chambers
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

Present: Mayor McClellan, Councilmembers Goodman, Mayor Pro Tem Cooke,
Councilmembers Himmelblau, Snell, Trevino

Absent: Councilmember Mullen

Mayor McClellan announced that Council will immediately convene in a closed or executive session authorized by Section 2, Paragraph (g) of Article 6252-17, Texas Revised Civil Statutes Annotated, to evaluate the City Manager; and after such closed or executive session, any final action, decision or vote with regard to any matter considered in the closed or executive session will be made in open session, should such action, decision or vote be necessary.

Mayor McClellan announced the purpose of the Special Called Meeting is to discuss the most unpopular ad that will be run in any media across this community. She asked Mr. Harris to advise Council concerning any information he has found out related to discussions Council has had on the matter previously.

Mr. Harris, City Attorney, stated: "We have, since Council and I discussed this particular matter, reviewed the statute and any material that's been put out by various agencies concerning the statute. In addition I have had the opportunity to visit with attorneys from Texas Municipal League and in addition, this afternoon I had a call from Mr. Jim Dodds who has done some checking with the Texas Legislative Council. Both the Texas Municipal people Mr. Dodds agree that our previous conversations with the Council are in accordance with what the statute requires in so far as the notice and the publication of the notice is concerned. We checked with the Attorney General's office to make sure the Attorney General's office to make sure the Attorney General had not received an appropriate request involving the interpretation of the statute that might be handed

down soon, and they have no such request in their office and are not working on any such interpretation at the current time." Mayor Pro Tem Cooke said he wanted to make it clear that what Council is interested in is the exact language that was placed into the law that specifies, or leads to an interpretation that an official act had been taken on an increase in property taxes when in fact that had not taken place based on the actual wording of the law.

Mr. Harris said, "Everybody's interpretation that I've been able to visit with is that the act requires that this additional vote be taken and that an ad about that action be published in the newspaper." Mayor McClellan said that they are not concerned with the ad having to appear, but are concerned that the ad has to read "For the Proposal to Increase Taxes". You have to take a vote on that before you have finished deliberating before you know what is and is not possible and that it rather violated our deliberation processes.

Mr. Harris then distributed to Council the Legal Department's suggested version of the ad. The first one, he said, was the one required by statute to be run in the newspaper 7 days prior to the public hearing. It must not appear in the legal or classified section of the newspaper and it must be a one-fourth page ad and it must be in at least 18 point type. He informed Council there must be four votes of Councilmembers in favor of announcing Council's intention to increase taxes.

Motion

Councilmember Trevino moved that all Councilmembers names be included on ad for proposal to increase taxes. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Goodman, Snell, Trevino, Mayor McClellan

Noes: None

Absent: Councilmember Mullen

Abstain: Mayor Pro Tem Cooke, Councilmember Himmelblau

There was more discussion, and they concluded there was no alternative but to vote for the ad, since it had been made law by the State Legislature.

Motion

Councilmember Trevino moved that the Council place the ad as required by state law. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmember Goodman

Noes: None

Absent: Councilmember Mullen

Abstain: Mayor Pro Tem Cooke, Councilmember Himmelblau

Mayor McClellan stated: "Let the record reflect I really don't like it but I really also feel the responsibility that we have met all the legal proper notice I'll vote for it and I also want to reserve the right to word that ad that goes on the left."

Mr. Harris said that the additional ad the Council might run is not required. Mr. Harris then passed out examples of ads the Council might want to run on the same page as the ad that has been discussed. He also passed an ad that has to be run after the public hearing, as required by law.

Motion

Councilmember Goodman moved that the Council run an ad announcing the City Council will vote on the proposed increase in taxes on September 27 at 2:00 P.M. after the public hearing. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmember Goodman

Noes: None

Absent: Councilmember Mullen

Abstain: Mayor Pro Tem Cooke, Councilmember Himmelblau

Mayor McClellan announced that Councilmember Mullen wants the record to reflect that he is absent from the meeting because of illness.

Council then discussed the explanatory ad. Mayor McClellan thought they should state that the four members who voted to have their vote on the ad to the right only did so to meet legal requirements. Councilmember Trevino asked if the ad would be in Spanish also. Mr. Harris said it was not a legal requirement but it could be done.

Motion

Councilmember Snell moved that the wording on the explanatory ad shall read: The Austin City Council has not voted to increase the tax rate. The four (4) members of the Austin City Council voting for the proposal to increase the taxes did so to comply with State Law. The City Manager has submitted a proposal to increase the current property tax rate of 96 cents per \$100 of assessed value to \$1.06 per \$100 of assessed value. The public hearing scheduled for September 20, 1979 at 6:00 P.M. affords you an opportunity to address the City Council on any proposed tax rate. The City Council will not decide what the tax rate will be until its public meeting of September 27, 1979. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmember Goodman

Noes: None

Absent: Councilmember Mullen

Abstain: Mayor Pro Tem Cooke, Councilmember Himmelblau

Mayor Pro Tem Cooke stated: "I'd like the record to reflect the reason I was present and not voting is that I feel this particular ad and this whole program is very misleading to the public and I can't endorse it and I won't endorse it and I feel like that for the record those of us who are present and not voting to state that. I realize the position of each person on the Council, but I feel like that needs to be in the record and I feel like too, Mr. Manager that number one, as we have already requested an Attorney General's opinion I too agree with Mr. Trevino that we need to send a very strong resolution and I hope we can prepare that and have that on the Council Agenda as to the unfairness to the public that the State Legislature in specific wording has forced upon the public officials of this state."